

13908 PLM

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Reimbursement of Military Members for Transportation of Dependents For Medical Care

FILE: B-194616

DATE: June 4, 1980

MATTER OF: Transportation of dependents outside
the United States for medical care

DIGEST: In the absence of statutory authority, the Joint Travel Regulations may not be amended to authorize lodging and subsistence expenses of dependents of military personnel outside the United States traveling to obtain medical care since only transportation for medical care is specifically authorized for such dependents under 10 U.S.C. 1040(a) (1976).

The question presented in this case is whether paragraph M7108 of the Joint Travel Regulations (1 JTR) may be revised or amended to authorize reimbursement for actual lodging and subsistence expenses of dependents of military personnel, in addition to the transportation for medical care authorized for such dependents under 10 U.S.C. 1040(a) (1976). In the absence of express statutory authorization for such additional expenses, an amendment to the present regulations granting extra expenses, in addition to authorized transportation, would not be proper.

The question was presented by letter (PDTATAC/1326) from the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics), with enclosures, including a memorandum from the Executive, Per Diem, Travel and Transportation Allowance Committee, and has been assigned PDTATAC Control No. 79-5.

The statutory authority for transportation of dependent patients is set out in 10 U.S.C. 1040(a) (1976), added by Public Law 89-140, August 28, 1965, which provides that if a dependent accompanying a member of the uniformed services who is stationed outside the United States and who is on active duty for more than 30 days requires medical attention which is not available in the locality, "transportation" of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. Upon the dependent's recovery, the dependent may also be transported at the expense of the United States

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back to the member's duty station or to such other place determined to be appropriate under the circumstances. The statute further provides that if a dependent is unable to travel unattended, round trip "transportation and travel expenses" may be furnished necessary attendants.

It is recognized in the submission that paragraph M7108, 1 JTR, currently authorizes transportation only of dependents outside of the United States for medical care when local medical care is not available. It does not authorize reimbursement for lodging and subsistence of dependents. However, it does authorize both transportation and travel expenses for attendants.

In 50 Comp. Gen. 764, 766 (1971), it was stated that where a statute provides for furnishing transportation only, it long has been the view that reimbursement for travel at personal expense may not exceed the cost of necessary transportation. 23 Comp. Gen. 875 (1944). A similar construction was placed on the phrase "transported at the expense of the United States" contained in 10 U.S.C. 1040, providing for the transportation of dependents of members stationed overseas to and from medical facilities. 47 Comp. Gen. 743 (1968).

As is pointed out above, 10 U.S.C. 1040, also provides for "round-trip transportation and travel expenses" for necessary attendants accompanying dependents traveling to and from medical facilities. Therefore, in the 1968 decision we further held that such attendants would be entitled to travel and transportation allowances, as distinguished from the transportation alone authorized for the dependents.

Our review of the legislative history of 10 U.S.C. 1040 indicates that this construction of the statute is consistent with the intent of the the Department of Defense in proposing it and with that of the Congress in enacting it. Accordingly, we must conclude that

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the regulations may not be revised to authorize reimbursement of expenses other than transportation expenses, for dependents traveling in the described circumstances. Thus, the question is answered no.

Milton J. Aorolan

For the Comptroller General
of the United States